

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

June 09, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:SP1104001

Kauai

Sale of two concession leases by means of a sealed bid auction for Business and/or Commercial Purposes, Wailua River State Park, Wailua, Kauai, Tax Map Key: (4) 3-9-004:010

REQUEST:

Sale of two concession leases at public auction for business and/or commercial purposes.

LEGAL REFERENCE:

Sections 171-14,16,17, 26, 41, and other applicable sections of Chapter 171 and Chapter 102, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands at the Wailua Marina, Wailua River State Park situated at Wailua, Lihue (Puna), Kauai, identified by Tax Map Key: (4) 3-9-004 Parcel 10, as shown on the attached tax map key labeled Exhibit A.

AREA:

.139 acres, more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation
The property is zoned CN, Neighborhood Commercial.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____ NO x

ITEM E-1

CURRENT USE STATUS:

Vacant and encumbered by Governor's Executive Order No. 2023 to the Division of State Parks for addition to the Wailua River State Park.

CHARACTER OF USE:

Business and/or commercial uses are allowed except gift shop, sundry and restaurant concessions. Authorized uses are subject to all applicable governmental regulation.

LEASE TERM:

Five (5) years.

COMMENCEMENT DATE:

Sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by staff or independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

MINIMUM PERCENTAGE ANNUAL RENT:

Percentage of gross revenue from all sources within the leased premises, excluding State excise tax. Percentage to be determined by staff or independent appraisal establishing fair market rent, subject to approval by the Chairperson.

EFFECTIVE RENTAL:

The amount of the successful bid at public auction or a percentage of the gross revenue (as determined by staff or independent appraisal), whichever is higher.

METHOD OF PAYMENT:

Monthly payments, in advance. Percentage rent payments shall be due by the 25th day of the following month.

RENTAL REOPENINGS:

None.

PERFORMANCE BOND:

The bond shall be equal to two times the annual rent.

MINIMUM IMPROVEMENTS:

If needed, Lessee will construct and maintain its own interior improvements at its own cost and expense, subject to the approval of the Division of State Parks. The premises are leased in their "As Is" condition. The Division of State Parks will maintain the building.

IMPROVEMENT BOND:

Equal to the amount of improvements, if any.

RENT WAIVER:

None.

PROPERTY CHARACTERISTICS:

Utilities –	Lessee shall pay its fair share of all utilities for the premises including water, electricity, trash removal and other utilities, regardless of whether or not they are separately metered, as determined by the Chairperson.
Existing Improvements –	The premises are leased in their "As Is" condition. The Lessee shall make all improvements within their space subject to the review and approval of the Division of State Parks. The square footage amounts are subject to verification and/or adjustment as necessary.
Legal access to property –	Staff has verified that there is legal access to the property off of Kuhio Highway.
Encumbrances –	Staff has verified that the following encumbrances exist on the property: EO No. 2023.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

State Parks believes that this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under Chapter 343, Hawaii Revised Statutes (HRS) and §11-200-8(a)(1), Hawaii Administrative Rules (HAR) and within exemption Class 1, Numbers 2 and 6 of the State Parks Exemption List which exempts operations involving negligible or no expansion or change of use beyond that previously existed within park boundaries [February 5, 1976].

REMARKS:

There are two individual spaces in this request and both spaces are currently vacant and depicted in Exhibit B. The first space, Bay 1, contains 977.5 sf and operated as a flower shop for a period of approximately 37 years and the second space, Bay 2, which contains 180 sf, was the former ticket office for the Waialeale Boat Tours operation. This building, known as Building "A", contains approximately 2,130 square feet of total rentable area and currently houses a retail shop of

approximately 805 square feet and a ticket office for Smith's Motor Boat Service in addition to the vacant space. The building was constructed in 1968. Over the last several years, the property has deteriorated and the demand for business and commercial space in the area has suffered as a result of general weakness in the economy.

In a June 18, 2004 Board Meeting (Item E-4), approval was given to publish and award, through a sealed bid process, three, fifteen (15) year leases for all of the then vacant commercial spaces in Building A as well as the marina restaurant space. The process resulted in no bidders. In Building A, the Bid Proposal required bidders to make a minimum investment of \$18,100.00 for interior improvements and the overall condition of the building was considered fair to poor. Staff believes the up-front financial investment and uncertain maintenance costs may have discouraged potential bidders.

State Parks has been approached by multiple potential retail users indicating interest in the spaces. Staff believes this auction is more likely to be successful because the minimum up-front improvement costs will be at the discretion of the potential lessees and the Division of State Parks will maintain the building.

The highest and best use for the property as determined in the 2004 appraisal is a multi-tenant retail use.

Comments were solicited from:

<u>Agency</u>	<u>Comments</u>
DLNR - Land Division	Comments received
OCCL - Sam Lemmo	No comments received
Kauai County Planning Dept	No comments received

RECOMMENDATION: That the Board:

1. Declare that after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the sale of concession leases via a sealed bid auction covering the subject areas for business and/or commercial purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current business or commercial general lease form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

June 9, 2011

Respectfully Submitted,



DANIEL S. QUINN
Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

[illegible]

Exhibit B – Building A
Wailua Marina State Park Retail Concession
Bays 1 and 2

